



February 23, 2016

ENGROSSED SENATE BILL No. 362

DIGEST OF SB 362 (Updated February 23, 2016 9:35 am - DI 113)

Citations Affected: IC 10-16; IC 10-17.

Synopsis: National guard members and veterans. Extends employment protections under the federal Uniformed Services Employment and Reemployment Rights Act and extends the rights, benefits, and protections under the Servicemembers Civil Relief Act to members of the national guard of another state during state sponsored activation. Allows military discharge records to be released to a person in possession of photographic identification and: (1) a power of attorney; (2) a court order appointing a guardian; or (3) a court order appointing a personal representative.

Effective: July 1, 2016.

**Banks, Houchin, Arnold J, Merritt,
Lanane**

(HOUSE SPONSORS — COX, JUDY, FRYE R)

January 11, 2016, read first time and referred to Committee on Veterans Affairs & The Military.

January 19, 2016, reported favorably — Do Pass.

January 21, 2016, read second time, ordered engrossed. Engrossed.

January 25, 2016, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 9, 2016, read first time and referred to Committee on Employment, Labor and Pensions.

February 23, 2016, amended, reported — Do Pass.

ES 362—LS 6794/DI 109



February 23, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 362

A BILL FOR AN ACT to amend the Indiana Code concerning military and veterans.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 10-16-7-23, AS AMENDED BY P.L.156-2015,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 23. (a) As used in this section, "active duty"
4 means:

5 (1) training or duty under federal law; ~~or~~

6 **(2) state active duty under an order of a governor of another**
7 **state as provided by law; or**

8 ~~(2)~~ **(3)** state active duty under section 7 of this chapter;
9 performed under an order of the governor.

10 (b) The rights, benefits, and protections of the federal
11 Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., apply to
12 a member of:

13 **(1) the Indiana national guard; or**

14 **(2) the national guard of another state;**

15 ordered to active duty for at least thirty (30) consecutive days.

16 (c) With respect to a member or reserve member of:

17 **(1) the Indiana National Guard; or**

ES 362—LS 6794/DI 109



(2) the national guard of another state;

ordered to state active duty, a person is not subject to remedies and penalties under this section or IC 10-16-20 for failure to comply with the federal Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., unless the member or member's dependent provides documentation to the person that the person is a member or reserve member of:

(1) the Indiana National Guard; or

(2) the national guard of another state;

ordered to state active duty for at least thirty (30) consecutive days.

(d) The rights, benefits, and protections of the federal Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 et seq., as amended and in effect on January 1, 2003, apply to a member of:

(1) the Indiana national guard; or

(2) the national guard of another state;

ordered to active duty.

(e) Nothing in this section shall be construed as a restriction or limitation on any of the rights, benefits, and protections granted to a member of:

(1) the Indiana national guard; or

(2) the national guard of another state;

under federal law.

SECTION 2. IC 10-16-20-2, AS ADDED BY P.L.156-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. The following definitions apply throughout this chapter:

(1) "Military service" means:

(A) in the case of a servicemember who is a member or reserve member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, full-time duty in the active military service of the United States, including:

(i) full-time training duty;

(ii) annual training duty; and

(iii) attendance while at a school designated as a service school by federal law or by the secretary of the military department concerned;

(B) in the case of a member or reserve member of the Indiana National Guard, service under a call to active:

(i) service authorized by the President of the United States or the Secretary of Defense for a period of more than thirty

(30) days in response to a national emergency declared by



the President of the United States; or

(ii) duty as defined by IC 10-16-7-23(a) for a period of more than thirty (30) consecutive days;

(C) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service; ~~or~~

(D) in the case of a member or reserve member of the national guard of another state, service under an order by the governor of that state to active duty for a period of more than thirty (30) consecutive days; or

~~(D)~~ **(E)** any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

(2) "Servicemember" means an individual engaged in military service.

SECTION 3. IC 10-17-2-4, AS ADDED BY P.L.174-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) As used in this section, "photographic identification" means an identification document that:

(1) shows the name of the individual to whom the document was issued;

(2) shows a photograph of the individual to whom the document was issued;

(3) includes an expiration date indicating that the document has not expired; and

(4) was issued by the United States or the state of Indiana.

(b) A discharge record is not a public record under IC 5-14-3. A county recorder may provide a certified copy of a discharge record only to the following persons:

(1) The veteran who is the subject of the discharge record if the veteran provides photographic identification.

(2) A person who provides photographic identification that identifies the person as a county or city service officer.

(3) A person who provides photographic identification that identifies the person as an employee of the Indiana department of veterans' affairs.

(4) A person who:

(A) is a funeral director licensed under IC 25-15; and

(B) assists with the burial of the veteran who is the subject of the discharge record;

if the person provides photographic identification and the person's funeral director license.



1 (5) If the veteran who is the subject of the discharge record is
2 deceased, the spouse or next of kin of the deceased, if the spouse
3 or next of kin provides photographic identification and a copy of
4 the veteran's death certificate.

5 (6) The following persons, ~~under a court order~~, if the person
6 provides photographic identification: ~~and a certified copy of the~~
7 ~~court order~~.

8 (A) The attorney in fact of the person who is the subject of the
9 discharge record, **if the attorney in fact provides a copy of**
10 **the power of attorney.**

11 (B) The guardian of the person who is the subject of the
12 discharge record, **if the guardian of the person provides a**
13 **copy of the court order appointing the guardian of the**
14 **person.**

15 (C) ~~If the person who is the subject of the discharge record is~~
16 ~~deceased~~, The personal representative of the estate of the
17 deceased, **if the person who is the subject of the discharge**
18 **record is deceased and the personal representative of the**
19 **estate provides a copy of the court order appointing the**
20 **personal representative of the estate.**

21 (c) To the extent technologically feasible, a county recorder shall
22 take precautions to prevent the disclosure of a discharge record filed
23 with the county recorder before May 15, 2007. After May 14, 2007, a
24 county recorder shall ensure that a discharge record filed with the
25 county recorder is maintained in a separate, confidential, and secure
26 file.

27 (d) Disclosure of a discharge record by the county recorder under
28 this section is subject to IC 5-14-3-10.



COMMITTEE REPORT

Madam President: The Senate Committee on Veterans Affairs & The Military, to which was referred Senate Bill No. 362, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 362 as introduced.)

BANKS, Chairperson

Committee Vote: Yeas 7, Nays 0

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred Senate Bill 362, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 3. IC 10-17-2-4, AS ADDED BY P.L.174-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) As used in this section, "photographic identification" means an identification document that:

- (1) shows the name of the individual to whom the document was issued;
- (2) shows a photograph of the individual to whom the document was issued;
- (3) includes an expiration date indicating that the document has not expired; and
- (4) was issued by the United States or the state of Indiana.

(b) A discharge record is not a public record under IC 5-14-3. A county recorder may provide a certified copy of a discharge record only to the following persons:

- (1) The veteran who is the subject of the discharge record if the veteran provides photographic identification.
- (2) A person who provides photographic identification that identifies the person as a county or city service officer.
- (3) A person who provides photographic identification that identifies the person as an employee of the Indiana department of veterans' affairs.
- (4) A person who:
 - (A) is a funeral director licensed under IC 25-15; and

ES 362—LS 6794/DI 109



(B) assists with the burial of the veteran who is the subject of the discharge record;

if the person provides photographic identification and the person's funeral director license.

(5) If the veteran who is the subject of the discharge record is deceased, the spouse or next of kin of the deceased, if the spouse or next of kin provides photographic identification and a copy of the veteran's death certificate.

(6) The following persons, ~~under a court order~~, if the person provides photographic identification: ~~and a certified copy of the court order~~:

(A) The attorney in fact of the person who is the subject of the discharge record, **if the attorney in fact provides a copy of the power of attorney.**

(B) The guardian of the person who is the subject of the discharge record, **if the guardian of the person provides a copy of the court order appointing the guardian of the person.**

(C) ~~If the person who is the subject of the discharge record is deceased~~, The personal representative of the estate of the deceased, **if the person who is the subject of the discharge record is deceased and the personal representative of the estate provides a copy of the court order appointing the personal representative of the estate.**

(c) To the extent technologically feasible, a county recorder shall take precautions to prevent the disclosure of a discharge record filed with the county recorder before May 15, 2007. After May 14, 2007, a county recorder shall ensure that a discharge record filed with the county recorder is maintained in a separate, confidential, and secure file.

(d) Disclosure of a discharge record by the county recorder under this section is subject to IC 5-14-3-10."

Page 3, delete lines 16 through 42.

Delete pages 4 through 9.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 362 as printed January 20, 2016.)

GUTWEIN

Committee Vote: yeas 13, nays 0.

ES 362—LS 6794/DI 109

